



BOARD OF APPEALS  
Enid Starr, Co-Chair  
Jesse Geller, Co-Chair  
Robert De Vries

RECEIVED  
*Town of Brookline*  
2008 AUG 26 AM 10:40  
*Massachusetts*  
BUILDING DEPT.  
TOWN OF BROOKLINE

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043  
Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 080025

Petitioners, Janet Selcer and Joel Schwartz applied to the Building Commissioner for permission to construct an addition to their home at 72 Blake Road. The application was denied and an appeal was taken to this Board.

On 12 June 2008, the Board met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed 14 August 2008, at 7:00 p.m. on the 2<sup>nd</sup> floor of the Main Library as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to its attorney (if any of record), to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published on 24 and 31 July 2008 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

#### NOTICE OF HEARING

Pursuant to M.G.L. C. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: SCHWARTZ, JOEL AND SELCER, JANET

Location of Premises: **72 BLAKE RD BRKL**

Date of Hearing: **08/14/2008**

Time of Hearing: **7:00 p.m.**

Place of Hearing: **Main Library, 2<sup>nd</sup>. floor**

A public hearing will be held for a variance and/or special permit from

1. **5.43; Exceptions to Yard and Setback Regulations, Special Permit Required.**
2. **5.70; Rear Yard Requirements, Variance Required.**
3. **8.02.2; Alteration or Extension, Special Permit Required**

of the Zoning By-Law to construct an addition per plans at **72 BLAKE ROAD BRKL.**

Said Premise located in a S-7 district.

*Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.*

*The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.*

**Enid Starr  
Jesse Geller  
Robert De Vries**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chair, Enid Starr and Board Members, Jesse Geller and Jonathan Book. The petitioners were present as well as their architect, John Grummitt of Platt Anderson Freeman Architects, 46 Waltham Street, Boston, MA.

Ms. Selcer described her home as a large, single family dwelling located on the north side of Blake Road at the end of Somerset Road in the vicinity of Brookline High School. The 2 ½ story wood structure has a garage underneath the left side of the house. The immediate neighborhood



consists primarily of large single family homes. She said that they propose to expand the kitchen by constructing a 145 s.f. addition (10'x14'6") on the right side of the dwelling. The addition will be one story and have a peaked roof. A small rear kitchen entryway will be removed. Ms. Selcer said they had lived in the home for over ten years and the kitchen is in need of updating. She said the modest addition would provide an eat-in component to the new kitchen. She said that their lot is unusually shaped and while there is not much property to the rear there is ample property on both sides of the home. She said because of the way the house is sited, far above the road, that their modest proposal would have minimal impact on her neighbors. When asked whether she had contact with the neighbors she said she contacted the immediate abutter and they had no issue with the proposal. Ms. Selcer said she needed relief from the rear setback requirements and would be providing additional landscaping as a counterbalancing amenity. She also said that because her home was pre-existing, non-conforming, she needed relief from §8.02.2 of the zoning bylaw. The architect, Mr. Grummitt, described the lot and placement of the home in greater detail.

The Chair asked whether anyone wished to speak in favor or in opposition to the proposal and no-one rose to speak.

Polly Selkoe, Assistant Director for Regulatory Planning delivered the finding of the Planning Department.

#### **Section 5.70 – Rear Yard Requirements**

	<b><u>Required</u></b>	<b><u>Existing</u></b>	<b><u>Proposed</u></b>	<b><u>Finding</u></b>
<b>Rear Yard</b>	30	8'-30'	8'-30'	<u>Special Permit*/ Variance</u>

\*Under Section 5.43, the BOA may waive yard and setback requirements if counterbalancing amenities are provided.

#### **8.02.2 – Alteration or Extension**

A special permit is required to alter a pre-existing non-conforming condition.

Ms. Selkoe said that the Planning Board had no objection to this proposed small kitchen addition at 72 Blake Road. The side addition will be one story and flush with the rear façade of the house, which itself has a non-conforming rear yard setback. The shape of the lot is irregular, almost pie shape, and this prevents a conforming addition from being built on the side of the house where the kitchen is located. The impact to the neighbors appears minimal as the rear of the lot is enclosed by hedges and contains tall trees. Thus, the Planning Board recommended approval of the requested relief per the 4/30/08 plans prepared by Platt, Anderson, Freeman Associated Architects, subject to the following conditions.

- 1. Prior to obtaining a building permit, the applicant shall submit a final landscaping plan to the Assistant Director of Regulatory Planning for review and approval.**
- 2. Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: a) a final site plan, stamped and signed by a registered architect or land surveyor, and b) elevations stamped and signed by a registered architect.**

The Chair called upon Michael Shepard, Building Commissioner, to deliver the Building Department report. Mr. Shepard stated that the proposal was a modest addition in keeping with the scale of the home. He said that the Building Department is supportive of the proposal and is in agreement with the conditions proposed by the Planning Department.

The Chair asked whether the petitioner had any additional testimony and she said she did not.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant special permits in accordance with Sections 5.43 and 8.02.2 of the Zoning By-law and made the following findings pursuant to Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.



- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. Prior to obtaining a building permit, the applicant shall submit a final landscaping plan to the Assistant Director of Regulatory Planning for review and approval.
2. Prior to obtaining a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: a) a final site plan, stamped and signed by a registered architect or land surveyor, b) elevations stamped and signed by a registered architect, and c) evidence that the decision has been recorded at the Registry of Deeds.

RECEIVED  
TOWN OF BROOKLINE  
REGISTRARS OF VOTERS

08 AUG 25 PM 2:12

Filing Date: August 25, 2008

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals



Enid Starr